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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GMAC, LLC,

Plaintiff,

vs.

MARY LOU BOSCH; SUSAN R. BOSCH,
HERBERT L. BOSCH, JR., individually and as
Trustee of the Bosch Family Trust Dated December
16, 1994; LEE A. BOSCH, individually and as
Successor Trustee of the Bosch Family Trust
Dated December 16, 1994; THE BOSCH FAMILY
TRUST Dated December 16, 1994,

Defendants.

Case No. 3:08-cv-00662-LRH-VPC

**STIPULATION AND ORDER FOR EXTENSION OF TIME
TO RESPOND TO DEFENDANTS' MOTION TO DISMISS**

(Second Extension)

Plaintiff GMAC, LLC ("GMAC"), by and through its attorneys, Jolley Urga Wirth Woodbury & Standish, and Herbert L. Bosch, Jr., individually and as Trustee of the Bosch Family Trust Dated December 16, 1994, Lee A. Bosch, individually and as Successor Trustee of the Bosch Family Trust Dated December 16, 1994, and the Bosch Family Trust Dated December 16, 1994 (collectively referred to hereinafter as "Defendants"), by and through their attorneys, Hoffman, Test, Guinan & Collier, hereby stipulate and agree as follows:

1. Defendants filed their Motion to Dismiss Complaint on January 20, 2009.

1 2. As set forth in GMAC's Complaint, on October 23, 2008, Bosch Motors, Inc.
2 ("Bosch Motors") filed a Voluntary Petition under Chapter 11 of Title 11 of the United States
3 Code, Case No. BK-08-52022-GWZ (the "Bankruptcy Proceeding").

4 3. GMAC is a secured creditor in the Bankruptcy Proceeding.

5 4. After the Bankruptcy Proceeding was filed, GMAC filed the complaint in this action
6 against Defendants asserting that Defendants are guarantors of certain obligations owing by Bosch
7 Motors to GMAC.

8 5. After the complaint was filed in this action, GMAC and Bosch Motors entered into
9 negotiations to resolve motions for relief from stay filed by GMAC in the Bankruptcy Proceeding
10 and a motion for authority to use cash collateral filed by Bosch Motors in the Bankruptcy
11 Proceeding.

12 6. After negotiations, GMAC and Bosch Motors agreed upon a Stipulated Final Order
13 re Use of Cash Collateral and Granting of Replacement Lien; and re Motion for Relief from
14 Automatic Stay and Second Motion for Relief from Automatic Stay in the Bankruptcy Proceeding
15 (the "Stipulated Final Order"). A true and correct copy of the Stipulated Final Order is attached
16 hereto as Exhibit 1.

17 7. The purpose of the Stipulated Final Order is to allow Bosch Motors to liquidate
18 certain collateral and to apply the proceeds of such collateral to GMAC's claim in the Bankruptcy
19 Proceeding.

20 8. On February 10, 2009, GMAC and the Defendants filed a Stipulation and Order for
21 Extension of Time to Respond to Defendants' Motion to Dismiss (First Extension). The purpose
22 of the First Extension was to allow the parties to assess the results of the liquidation.

23 9. The liquidation process is ongoing. Pursuant to the Stipulated Final Order, Bosch
24 Motors has terminated its franchise with General Motors and returned the New Floored Vehicles
25 to General Motors pursuant to NRS Chapter 482. In addition, Bosch Motors has delivered the
26 Used Floored Vehicles to GMAC, and GMAC has liquidated the Used Floored Vehicles pursuant
27 to the terms of the Stipulated Final Order. In addition, Bosch Motors has begun the process of
28 returning its inventory of parts, accessories and special tools to General Motors as set forth in NRS

482.363521. However, the process of returning the parts, accessories and special tools has not been completed. As a result, the parties in the Bankruptcy Proceeding are presently unable to determine the amount of GMAC's claim against Bosch Motors.

10. The purpose of the liquidation is to reduce GMAC's claim, which reduction may ultimately result in a dismissal of GMAC's claims against Defendants in this action. Further, a stay of this proceeding for an additional 60 days will allow Defendant Lee Bosch, a principal in Bosch Motors, to concentrate his time and efforts on the resolution of the Bankruptcy Proceeding.

11. Based upon the foregoing, the parties assert that good cause exists to extend the time for GMAC to respond to Defendants' Motion to Dismiss.

12. This is the second request for extension of time in this proceeding.


NOW THEREFORE, IT IS HEREBY STIPULATED, by and between the parties hereto, through their respective counsel, that Defendants and GMAC agree to enlarge and otherwise extend the time permitted for GMAC to file its Opposition to Defendants' Motion to Dismiss.

IT IS FURTHER STIPULATED that GMAC will have until June 22, 2009, to file its Response to Defendants' Motion to Dismiss Complaint.

HOFFMAN, TEST, GUINAN
& COLLIER

JOLLEY URGAL WIRTH WOODBURY
& STANDISH

By: /s/ John A. Collier, Esq.
John A. Collier, Esq.
429 West Plumb Lane
P.O. Box 187
Reno, Nevada 89504
Attorneys for Defendants

By: 
Brian E. Holthus, Esq.
3800 Howard Hughes Pkwy., #1600
Las Vegas, Nevada 89169
Attorneys for Plaintiff

Dated: 4/3/09

Dated: 4-3-9

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Case No. 3:08-cv-00662-LRH-VPC

ORDER

Based upon the above stipulation of the parties, and good cause appearing, and there being no just reason for delay:

IT IS HEREBY ORDERED that GMAC shall have until June 22, 2009, to file a response to Defendants' Motion to Dismiss Complaint.

DATED this 6th day of April, 2009.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE

JOLLEY URGAS WIRTH WOODBURY & STANDISH
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EXHIBIT 1



Entered on Docket
February 23, 2009

Hon. Gregg W. Zive
United States Bankruptcy Judge

STEPHEN HARRIS, ESQ.
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:

BOSCH MOTORS, INC.,
a Nevada corporation,

Debtor.

Case No. BK-08-52022-GWZ
Chapter 11

**STIPULATED FINAL ORDER RE USE
OF CASH COLLATERAL AND
GRANTING OF REPLACEMENT LIEN;
AND RE MOTION FOR RELIEF FROM
AUTOMATIC STAY AND SECOND
MOTION FOR RELIEF FROM
AUTOMATIC STAY**

Interim Hearing Date: 2/2/09
Interim Hearing Time: 2:00 p.m.
Final Hearing Date: 2/17/09
Final Hearing Time: 2:30 p.m.

This Stipulated Final Order Re Use of Cash Collateral and Granting of
Replacement Lien; and Re Motion for Relief From Automatic Stay and Second Motion for
Relief from Automatic Stay is entered into by and between Debtor and Debtor-in-

1 Possession herein, Bosch Motors, Inc.' ("Debtor") by and through its attorney Chris D.
2 Nichols, Esq. of Belding Harris & Petroni, Ltd., and Secured Creditor General Motors
3 Acceptance Corporation ("GMAC"), by and through its attorney Brian E. Holthus, Esq. of
4 Jolley Urga Wirth Woodbury & Standish. Debtor and GMAC stipulate to the following
5 pursuant to 11 U.S.C. §362(c)(2) and request entry of an Order approving the Stipulation
6 and Debtor's final use of cash collateral pursuant to F.R.B.P. 4001(b):
7

8 RECITALS

9 A. Petition. On October 23, 2008 (the "Petition Date"), the Debtor commenced
10 the above-captioned Chapter 11 bankruptcy case by filing a voluntary petition with the
11 United States Bankruptcy Court for the District of Nevada. The Debtor is continuing in
12 possession of its property, and operating and managing its business, as debtor-in-
13 possession pursuant to Bankruptcy Code sections 1107 and 1108. No Trustee or
14 Examiner or Creditors' Committee has been appointed.
15

16 B. Jurisdiction. This Court has jurisdiction over this Chapter 11 case, and the
17 parties and property affected hereby, pursuant to 28 U.S.C. §§ 157(b) and 1334. This
18 proceeding constitutes a core proceeding as defined in 28 U.S.C. §157(b)(2). Venue of
19 this bankruptcy case is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
20

21 C. Debtor. Debtor operates an automobile dealership with related service and
22 parts department.

23 D. GMAC's Claim. As of the Petition Date, the Debtor was indebted to GMAC
24 in the approximate amount of \$4,968,472.00 the ("Prepetition Indebtedness"). The
25 Prepetition Indebtedness includes various loan, financing and security agreements with
26 the Debtor, or related principals and entities of the Debtor in which Debtor guaranteed
27 the obligations of the Debtor's principals and related entities and liabilities. The various
28 loan and financing transactions are summarized (but are not limited) as follows:

- 1 a. On June 15, 1990, GMAC and Debtor entered into a Wholesale
2 Security Agreement. Under the Wholesale Security Agreement,
3 Debtor agreed to upon demand pay GMAC the amount it advances
4 or is obligated to advance to the manufacturer or distributor for each
5 vehicle with interest at the rate per annum designated by GMAC
6 from time to time with respect to Debtor's vehicle inventory. Debtor's
7 obligations under the June 15, 1990 Wholesale Security Agreement
8 were personally guaranteed by Mary Lou Bosch and Herbert L.
9 Bosch pursuant to a personal guaranty dated June 13, 1990.
10
11 b. On October 16, 1992, GMAC and Debtor entered into an
12 Amendment to Wholesale Agreement.
13
14 c. On June 17, 1992, GMAC and Debtor entered into a Wholesale
15 Security Agreement.
16
17 d. On June 17, 1993, GMAC and Debtor entered into an Amendment to
18 Wholesale Security Agreement.
19
20 e. On April 6, 1994, Debtor entered into a Security Agreement in favor
21 of GMAC, granting GMAC a security interest in all of Debtor's
22 inventory.
23
24 f. On September 9, 1994, Debtor executed a First Amendment to
25 Wholesale Security Agreement in favor of GMAC.
26
27 g. On November 4, 1994, GMAC and Debtor entered into an
28 Amendment to Wholesale Security Agreement.
h. On June 6, 1997, GMAC and Debtor entered into an Amendment to
Wholesale Security Agreement.

- 1 i. On December 14, 2000, GMAC and Debtor entered into a General
2 Security Agreement in which Debtor granted GMAC a security
3 interest in Debtor's inventory and other collateral. In connection with
4 the General Security Agreement, Lee A. Bosch and Mary Susan R.
5 Bosch executed a Guaranty in favor of GMAC on December 14,
6 2000.
- 7
8 j. On July 31, 2006, The Bosch Family Trust dated December 16,
9 1994 executed a \$2,261,250.00 Promissory Note in favor of GMAC.
10 Debtor guaranteed the Trust's obligations under the Promissory
11 Note.
- 12
13 k. On July 7, 2006, Debtor executed a Loan Agreement in favor of
14 GMAC in the amount of \$73,259.08.
- 15
16 l. On July 7, 2006, Debtor executed a Loan Agreement in favor of
17 GMAC in the amount of \$52,644.70.
- 18
19 m. On August 16, 2006, Debtor entered into a Security Agreement in
20 favor of GMAC granting GMAC a security interest in all of Debtor's
21 assets, including Debtor's vehicle inventory.
- 22
23 n. On August 18, 2006, Debtor, as guarantor, The Bosch Family Trust
24 dated December 16, 1994, as borrower, Herbert L. Bosch, Jr., as
25 individual guarantor, Lee A. Bosch, as individual guarantor, and
26 Susan R. Bosch, as individual guarantor, entered into a Cross
27 Default and Personal Property Cross-Collateralization Agreement.

28 The foregoing Agreements are collectively referred to as the "Loan and Security Agreements".

1 E. Out of Trust Sales. Prior to the Petition Date, Debtor sold 28 vehicles "out
2 of trust". That is, Debtor failed to timely transfer the sales proceeds to GMAC pursuant to
3 the terms of the Wholesale Agreement and Wholesale Security Agreement, as amended
4 and referenced in Paragraph D above ("Wholesale Plan"). Debtor believes the balance
5 owing to GMAC on the out of trust sales as of January 29, 2009 is approximately
6 \$692,568.27 (the "Out of Trust Balance"), and Debtor and GMAC are conferring to
7 determine this balance.
8

9 F. Post-Petition Interest and Insurance Charges. Pursuant to GMAC's
10 Wholesale Plan, Debtor is obligated to pay monthly interest and insurance charges to
11 GMAC. Debtor failed to make any interest or insurance charges after the Petition Date.
12 The amount owing for post-petition interest and insurance charges as of December 31,
13 2008 is \$63,538.81 (the "Post-Petition Interest and Insurance Balance").
14

15 G. Floor Plan Amount. The Floor Plan Amount is the balance owed to GMAC
16 for financing of the Floored Vehicles.
17

18 H. GMAC's Security and Prepetition Collateral. The Prepetition Indebtedness
19 is secured by the Loan and Security Agreements and UCC-1 Financing Statements filed
20 with the Nevada Secretary of State, granting GMAC a first priority security interest in and
21 to substantial of all of the assets of the Debtor. The UCC-1 Financing Statements
22 include:

- 23 a. an initial financing statement dated April 14, 1994 and related
24 amendments and continuations thereto.
25 b. an initial financing statement dated September 15, 1994 and
26 amendments and continuations related thereto.
27 c. an initial financing statement dated December 22, 2000 and a
28 continuation and amendment related thereto.

1 d. an initial financing statement dated September 13, 2006 and an
2 assignment related thereto.

3 The Loan and Security Agreements and UCC-1 Financing Statements constitute a first
4 priority encumbrance on all of the Debtor's equipment, machinery, fixtures, inventory,
5 vehicle inventory, deposits, account(s), chattel paper, general intangible(s), computer
6 equipment, and all other personal property, including proceeds and products of each (the
7 "Prepetition Collateral"). The financing statements referenced above are collectively
8 referred to as the "Financing Statements".
9

10 I. The Prepetition Collateral includes new and used vehicles subject to
11 GMAC's floor plan financing agreement the ("Floored Vehicles"). The Floored Vehicles
12 consist of new vehicles which are eligible for return to General Motors pursuant to NRS
13 Chapter 482 (the "New Floored Vehicles") and new and used vehicles which are not
14 eligible for return to General Motors pursuant to NRS Chapter 482 (the "Used Floored
15 Vehicles").
16

17
18 J. The Prepetition Collateral also includes Debtor's used vehicle inventory in
19 which GMAC holds a perfected first priority security interest, but which are not Floored
20 Vehicles (the "Non-Floored Vehicles"). GMAC's Prepetition Collateral also includes a
21 first priority security interest in Debtor's open account with General Motors (the "Open
22 Account"). As of January 29, 2009, the balance of the Open Account is in the minimum
23 amount of approximately \$152,000.
24

25 K. Need for and Uses of Cash Collateral. As a result of GMAC's liens upon,
26 and security interests in, the Prepetition Collateral, and by virtue of Bankruptcy Code
27 section 363(c)(2), the Debtor is unable to use the "Cash Collateral" (as such term is
28 defined below) without the consent of GMAC or the authorization of the Court after notice

1 and a hearing. The Debtor has an immediate need for the use of Cash Collateral for the
2 preservation of the bankruptcy estate and the maintenance and continued operation of its
3 business to pay employees, suppliers, current debt service to GMAC, and other trade
4 creditors on a current post petition basis for Debtor's ordinary course of business day to
5 day operations.
6

7 **AUTHORIZATION TO USE OF CASH COLLATERAL**

8 Based upon the foregoing findings and conclusions, and good cause
9 appearing therefore,

10 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

11 1. **Incorporation.** The Recitals contained above are incorporated herein
12 by this reference.

13 2. **Indebtedness.** The Debtor hereby acknowledges and agrees that
14 the Debtor is liable to GMAC in the full amount of the Prepetition Indebtedness.
15

16 3. **Validity of Claims.** Subject only to the rights of interested third
17 parties, the Debtor acknowledges and agrees to the following:

18 3.1 The Prepetition Indebtedness constitutes an allowed claim
19 under the Bankruptcy Code.

20 3.2 The Prepetition Indebtedness is secured by a valid, perfected,
21 and infeasible, first priority security interest in Prepetition
22 Collateral except as provided below.
23

24 4. **Rights of Interested Parties.** Notwithstanding the provisions above, any
25 interested third party, other than the Debtor shall have the right, pursuant to the
26 provisions of the Bankruptcy Code, to file with the Bankruptcy Court and serve on the
27 Debtor and GMAC any motions, complaints or objections with respect to amount of the
28 Prepetition Indebtedness, the extent, validity or priority of GMAC's security interest in the

1 Prepetition Collateral, or against GMAC (including, without limitation, any claims of the
2 estate under sections 510, 541, 544, 547, 548, 549, 550, or 553 of the Bankruptcy
3 Code). Any such claims, causes of actions or objections shall set forth the legal and
4 factual basis therefore.

5
6 a. Collection and Use of Cash Collateral: DIP Account. For
7 purposes of this Order, "Cash Collateral" includes, without limitation, available cash,
8 negotiable instruments, documents of title, securities, chattel paper, deposit accounts, or
9 other cash equivalents whenever acquired in which the Debtor has an interest, and
10 includes any and all proceeds, products, offspring, rents or profits of property and all
11 fees, charges, accounts or other payments on the Prepetition Collateral or otherwise
12 generated by or derived from the Prepetition Collateral. Effective on the Bankruptcy
13 Court's Entry of this Order (the "Approval Date"), and subject to the provisions this Order,
14 GMAC consents to the use by the Debtor of the Cash Collateral *nunc pro tunc* to the
15 Petition Date for the payment of Debtor's payroll and all related taxes, GMAC debt
16 service, U.S. Trustee fees, Debtor's post petition legal and professional fees (as
17 approved by the Court), and other ordinary and necessary business expenses for
18 Debtor's operations.

19
20
21 5. Adequate Protection to GMAC. As adequate protection for the expected
22 diminution in value of the interests of GMAC, in compliance with section 506(b) of the
23 Bankruptcy Code, and in consideration of consent to the Debtor's use of the Cash
24 Collateral as set forth in this Stipulation (a) GMAC is hereby granted a replacement lien
25 (the "Postpetition Lien") and on each and all of the Debtor's Postpetition assets,
26 including, but not limited to, the Open Account, rents, accounts, inventory, vehicle
27 inventory, general intangibles, documents, instruments, equipment, payment intangibles,
28 fixtures, investment property, all deposit accounts with any bank or financial institution

1 and the contents thereof, and all cash and other property deposited therein, all books,
2 records, ledger cards (collectively, the "Postpetition Collateral") and any and all proceeds
3 of such Postpetition Collateral, with such Postpetition Lien being a perfected security
4 interest in and to the Postpetition Collateral having the same extent, validity and priority
5 as GMAC had in the Prepetition Collateral on the Petition Date; provided, however, that
6 the Postpetition Lien and Postpetition Collateral shall exclude any causes of action,
7 claims, recoveries or rights of the Debtor's bankruptcy estate under Chapter 5 of Title 11
8 and specifically, sections 506, 544, 547, 548, 549, 550, and/or 553 of the Bankruptcy
9 Code, and (b) under section 507(b) of the Bankruptcy Code, if the protection granted
10 above is insufficient to satisfy in full the claim of GMAC, GMAC will be granted an
11 allowed claim under section 503(b) of the Bankruptcy Code in the amount of any such
12 insufficiency. Such claim shall have the priority provided by section 507(b) of the
13 Bankruptcy Code, and no claim for costs or expenses of administration that have been or
14 may be incurred in this case, any conversion of this case to a case under chapter 7 of the
15 Bankruptcy Code, or otherwise, and no priority claims, are or will be senior to or on a
16 parity with any such claim of GMAC, subject only to fees payable to the Office of the
17 United States Trustee under 28 U.S.C. § 1930 and fees or costs owing to the Clerk of the
18 Court.
19
20
21

22 6. No Postpetition Debt; No Other Liens. The Debtor represents that it will not
23 incur any post-petition indebtedness, whether pursuant to section 364 of the Bankruptcy
24 Code or otherwise, other than post-petition professional fees and costs, and fees to the
25 Office of the United States Trustee, and agrees not to seek court approval of any such
26 post-petition indebtedness on an ex parte or short notice basis except with prior approval
27 by GMAC.
28

7. Prepetition Collateral Use Approval. GMAC recognizes that Debtor may

1 have, after the Petition Date, continued to use Cash Collateral to operate its business
2 despite the prohibition of such use. Debtor and GMAC agree that to the extent Debtor
3 used Cash Collateral, Debtor will submit an accounting within 10 days of entry of this
4 Order all Cash Collateral, as well as any and all expenditures made. Debtor agrees
5 retroactively with respect to such expenditures that it shall be under the same
6 obligations, terms and conditions as set forth herein as though previous use of Cash
7 Collateral were made pursuant to this Order.
8

9 8. Debtor-in-Possession Accounts. Debtor has opened Debtor-in-Possession
10 accounts in accordance with the guidelines of the United States Trustee. Debtor shall
11 deposit all revenue, rents, cash, income, profit, or other monies obtained in the course of
12 business or otherwise in the Debtor-in-Possession account(s).
13

14 9. Reporting. Debtor shall provide GMAC with a monthly report comparing
15 actual to budgeted use of Cash Collateral. Debtor shall also provide by the 20th of each
16 month, commencing January 20, 2009, and monthly thereafter, the following:

17 9.1 Copies of the Debtor's monthly operating reports submitted to the
18 Office of the United States Trustee;

19 9.2 Any other financial information reasonably requested by GMAC,
20 including without limitation Debtor's interest in any joint venture,
21 limited liability company or other entity, foreign or domestic.
22

23 Debtor shall provide such other information as reasonably requested by GMAC.

24 10. Nunc Pro Tunc. GMAC provides its consent to the use of Cash Collateral
25 in connection with the bankruptcy filing. Accordingly, the relief granted in the Court's
26 Order shall be effective as of the Petition Date.
27

28 11. No Surcharge. Debtor and any successors, excluding any trustee
appointed by the Court, shall not be permitted to surcharge GMAC's

1 Collateral or the Post-Petition Collateral under Bankruptcy Code §§506(c),
2 552(a) or otherwise, without GMAC's written consent, which GMAC may
3 withhold in its sole discretion.
4

5 12. Termination of Franchise and Return of Floored Vehicles and Parts

6 12.1 Immediately upon entry of this Order, Debtor will take all steps
7 necessary and appropriate to terminate its franchise with General
8 Motors and return the New Floored Vehicles to General Motors
9 pursuant to NRS Chapter 482. After Debtor's termination notice is
10 given to General Motors, and before General Motors takes delivery
11 of the New Floored Vehicles (the "Interim Termination Period"),
12 Debtor may continue to sell the New Floored Vehicles. However,
13 GMAC will hold titles to the New Floored Vehicles, and Debtor shall
14 not sell any of the New Floored Vehicles for less than the floor plan
15 amount. The entire proceeds of sales of New Floored Vehicles
16 during the Interim Termination Period shall be paid directly to GMAC
17 to reduce the Floor Plan Amount, with any surplus balance
18 remaining after payment in full of the Floor Plan Amount to then be
19 applied to those balances remaining for interest and insurance as
20 set forth in Paragraphs 13.1 and 13.6 below until paid in full, and
21 then to the Out of Trust Balance until paid in full. The entire
22 proceeds of the compensation due to Debtor from General Motors
23 for the return of the New Floored Vehicles shall be paid directly to
24 GMAC to reduce the Floor Plan Amount.
25
26
27

28 12.2 In connection with the termination of its General Motors franchise,
Debtor will immediately deliver the Used Floored Vehicles to GMAC.

1 GMAC will liquidate the Used Floored Vehicles and apply the
2 proceeds to reduce the Floor Plan Amount until the Floor Plan
3 Amount is paid in full with any remaining surplus balance to be
4 applied to those balances remaining for interest and insurance as
5 set forth in Paragraphs 13.1 and 13.6 below until paid in full, and to
6 then be applied to the Out of Trust Balance until paid in full.
7

8 12.3 In connection with this termination of its General Motors franchise,
9 Debtor will return its inventory of parts, accessories, and special
10 tools to General Motors as set forth in NRS 482.363521. The
11 proceeds of the return of the parts and accessories shall be placed
12 in Debtor's Open Account, which proceeds shall then be paid directly
13 from the Open Account to GMAC to reduce the Out of Trust Balance
14 and the Floor Plan Amount and the interest and insurance amounts
15 set forth in Paragraphs 13.1 and 13.6 below.
16

17 13. Payments to GMAC.

18 13.1 As additional adequate protection of GMAC's interests in the
19 Collateral, Debtor shall pay the Post-Petition Interest and Insurance
20 Balance to GMAC no later than April 6, 2009, as provided below.
21

22 13.2 As additional adequate protection of GMAC's interests in the
23 Collateral, Debtor shall reduce the sum of the Out of Trust Balance,
24 the Floor Plan Amount, and the interest and insurance amounts set
25 forth in Paragraphs 13.1 and 13.6 herein to a total of \$300,000 no
26 later than April 6, 2009. In the event the proceeds of the return and
27 liquidation of the Floored Vehicles plus the proceeds of the return of
28 the parts and accessories are insufficient to reduce the sum of the

1 Out of Trust Balance and the Floor Plan Amount and the interest and
2 insurance amounts set forth in Paragraphs 13.1 and 13.6 herein to a
3 total of \$300,000, Debtor shall liquidate a sufficient portion of its
4 Non-Floored Vehicles and pay the proceeds of such liquidation
5 directly to GMAC in such an amount as is necessary to reduce the
6 sum of the Out of Trust Balance, the Floor Plan Amount and the
7 interest and insurance amounts set forth in Paragraphs 13.1 and
8 13.6 herein to a total of \$300,000 within the time limits set forth in
9 this Order.
10

11 13.3 As additional adequate protection of GMAC's interests in the
12 Collateral, Debtor shall pay to GMAC monthly debt service, interest
13 and insurance as and when due under the Loan and Security
14 Agreements and the Wholesale Plan, in addition to those amounts
15 otherwise provided in this Order.
16

17 13.4 As additional adequate protection, Debtor shall pay \$15,000 to
18 GMAC on the first business day of each month beginning April 1,
19 2009. Such monthly payments shall be applied to the Out of Trust
20 Balance, any remaining Floor Plan Amount, and the interest and
21 insurance amounts as set forth in Paragraphs 13.1 and 13.6 herein
22 and shall continue until the sum of the Out of Trust Balance, the
23 Floor Plan Amount, and the interest and insurance amounts as set
24 forth in Paragraphs 13.1 and 13.6 herein is paid in full.
25

26 13.5 As additional adequate protection, GMAC shall collect the present
27 balance, and any future balances, of the Open Account and apply
28 the proceeds to reduce the Floor Plan Amount until paid in full, and

1 then to those balances remaining for interest and insurance set forth
2 in Paragraphs 13.1 and 13.6 below until paid in full, with any
3 remaining balance to then be applied to the Out of Trust Balance.
4

5 13.6 As additional adequate security, Debtor shall pay, subject to the
6 Court's approval, pre-petition interest and insurance charges
7 accrued under the Wholesale Plan in the amount of \$56,131 to
8 GMAC no later than April 6, 2009, as provided above.

9 14. No other charges. All terms of the Loan and Security Agreements shall
10 remain in full force and effect and remain binding, except when inconsistent with an
11 express provision of this Order.
12

13 15. Assurances. Debtor shall, after the date of this Order: (a) provide notice to
14 GMAC as soon as practicable of the occurrence of any Event of Default (hereinafter
15 defined) or any event known to Debtor or its counsel which, with the passage of time or
16 giving of notice, or both, would constitute an Event of Default; (b) oppose any appeal or
17 other challenge to the Stipulation or to the Court's order approving the Stipulation,
18 including any action taken to amend, modify, or vacate the Stipulation or the Court's
19 Order without GMAC's written consent; and (c) only incur indebtedness reasonably
20 necessary for the operation of Debtor's business.
21

22 16. Events of Default. Debtor's authority to use Cash Collateral pursuant to the
23 Order shall terminate five (5) business days after the occurrence and continuation of any
24 of the following events (unless such event is cured), each of which shall constitute an
25 Event of Default:
26

27 16.1 After entry of this Order Debtor violates any of the material
28 provisions of the Loan and Security Agreements, except for those
defaults waived by GMAC;

1 16.2 Debtor's chapter 11 case is converted to a case under chapter 7 of
2 the Bankruptcy Code;

3 16.3 The Court authorizes the appointment of a chapter 11 trustee for
4 Debtor's estate;

5 16.4 Any lien, security interest or priority purported to be created by this
6 Order shall, for any reason, cease to be valid and enforceable in
7 accordance with the original terms of this Order; or subsequent
8 orders are entered by this Court amending, modifying,
9 supplementing, vacating, or staying this Order without the written
10 consent of GMAC;
11

12 16.5 This Court enters an order:

13 16.5.1 granting relief from the automatic stay applicable under
14 Bankruptcy Code §362 to the holder of any security interest or
15 lien senior or pari passu to GMAC's security interest in or lien
16 upon any of Debtor's assets without the prior written consent
17 of GMAC; or
18

19 16.5.2 granting any lien or security interest that is senior or pari
20 passu to any lien held by GMAC in any collateral or any other
21 assets without the prior written consent of GMAC;
22

23 16.6 Debtor files a plan of reorganization which does not incorporate the
24 provisions of this Order.

25 16.7 Debtor files any motion or takes any action inconsistent with this
26 Order; or
27

28 16.8 Debtor defaults in the performance of any of its obligations set forth
in this Order.

1 17. Effect of Default. Upon the occurrence and continuation of any Event of
2 Default past the applicable cure period, such occurrence shall be deemed to be an Event
3 of Default and Debtor's authority to use Cash Collateral shall immediately and
4 automatically terminate, provided, however, that any Event of Default may be waived by
5 written waiver executed by GMAC. Upon the receipt by the Debtor of any such written
6 waiver, Debtor's authority to use Cash Collateral shall be retroactively reinstated as if no
7 Event of Default had occurred.
8

9 17.1 In the event of Debtor defaults on its obligation to provide payment
10 to GMAC of the monthly debt service as and when due under the
11 Loan and Security Agreements, including interest on the outstanding
12 principal balance of the GMAC loans or other adequate protection
13 payments ordered by the Court ("Payment Default"), GMAC or its
14 counsel may send a Notice of Default by electronic mail, facsimile
15 copy, U.S. Mail or hand-delivery to Debtor's counsel.
16

17 17.2 If Debtor fails to cure the Payment Default within five (5) business
18 days of the date of delivery of such notice, GMAC may, in addition to
19 the remedies set forth above, file a Declaration of Noncompliance,
20 stating under penalty of perjury that the Debtor has failed to make
21 payment(s) and has failed to cure after five (5) business days from
22 the Notice of Default.
23

24 17.3 Notwithstanding the foregoing provisions of Paragraphs 16 or 17, if,
25 at any time after entry of this Order Debtor sells a vehicle out of
26 trust, GMAC may immediately submit an ex-parte order terminating
27 the automatic stay.
28

 17.4 Notwithstanding the foregoing provisions of Paragraphs 16 or 17, if

1 Debtor fails to timely reduce the Out of Trust Balance, any remaining
2 Floor Plan Amount and the interest and insurance amounts set forth
3 in Paragraphs 13.1 and 13.6 herein to a total of \$300,000 as
4 described in Paragraph 13.2 above, or fails to timely deliver any of
5 the \$15,000 monthly payments described in Paragraph 13.4, GMAC
6 may immediately submit an ex-parte order terminating the automatic
7 stay.
8

9 18. Section 363(m) of the Bankruptcy Code. Having been found to have acted
10 in good faith in agreeing to the terms of this Stipulation, GMAC shall be entitled to the full
11 protection of section 363(m) of the Bankruptcy Code with respect to the Debtor's grant of
12 the Postpetition Liens created and authorized by this Order in the event that this Order or
13 any authorization contained in this Order is stayed, vacated, reversed, or modified on
14 appeal. Any stay, modification, reversal, or vacating of this Order will not affect the
15 validity of any obligation of the Debtor incurred under this Order.
16

17 19. No Waiver by Any Party. This Order does not prejudice the right of GMAC
18 to seek relief from the automatic stay of section 362 of the Bankruptcy Code, or any other
19 relief in this case, including demands for adequate protection, objections and claims
20 relating to applications or motions for adequate protection, or the use, sale, or other
21 disposition of the Cash Collateral or the Post-Petition Collateral. Except as otherwise
22 expressly set forth in this Order, this Order is not a waiver or modification of any of the
23 rights of GMAC, and GMAC does not have any obligation or duty to any other entity to
24 exercise of any of its rights, remedies, claims, powers, benefits, and privileges. Delay in
25 or failure to exercise any of their rights, remedies, claims, powers, benefits, or privileges
26 does not constitute a waiver, nor subject GMAC to any liability to any entity, and no other
27
28

1 entity may rely upon any delay or failure or in any way seek to assert a defense to any
2 obligation owing based on any delay or failure.

3 20. Successors and Assigns; Survival. The provisions of this Order shall be
4 binding upon and inure to the benefit of GMAC and the Debtor and its estate, and the
5 respective successors and assigns of each of the foregoing.
6

7 21. Modification of Order. The terms and conditions set forth in this Order may
8 not be altered, modified, or affected without the prior written consent of the Debtor and
9 GMAC. If any or all of the provisions of this Order are hereafter modified, vacated,
10 terminated, amended or stayed, the authority of Debtor to use Cash Collateral shall
11 cease immediately thereupon; provided, however, that no such occurrence shall affect,
12 limit or modify (a) the validity of any claim for any amounts of Cash Collateral used
13 pursuant to this Order, or (b) the validity, enforceability, priority or perfection of any lien or
14 security interest granted under this Order, and further provided that GMAC may
15 determine, in its sole discretion, that any modification of the kind described above is
16 immaterial and shall not cause consent to the use of Cash Collateral hereunder to cease.
17

18 22. No Agreement to Provide Financial Accommodation. No provision of this
19 Order shall in any way impose upon GMAC any duty or obligation to provide any
20 financing or financial accommodation to Debtor or any other party, to collect, sell, lease
21 or otherwise dispose of any of GMAC's collateral, to proceed against any party, person,
22 individual or entity, to proceed against or exhaust any security held by GMAC, or any
23 other party, person, individual or entity, or to otherwise pursue any action, right or
24 remedy in GMAC's power whatsoever. Notwithstanding the foregoing, so long as there
25 is no Event of Default, GMAC shall not take any action against the non-debtor guarantors
26 or non-debtor borrowers under the Loan and Security Agreements and Wholesale Plan
27 to enforce or collect any amounts due under such documents, and shall stay any further
28

1 action in that case entitled GMAC v. Mary Lou Bosch, et al., Case No. 08-00662 pending
2 in the United States District Court for the District of Nevada ("Litigation"). Upon any
3 uncured Event of Default, as provided in Paragraphs 16 and 17 above, GMAC may
4 without further advance notice pursue all of its rights and remedies as to any non-debtor
5 guarantors and non-debtor borrowers, including those in the Litigation.
6

7 23. Consent and Mutual Agreement. Whenever any action may be taken under
8 this Order upon the prior written consent of GMAC or the prior mutual written agreement
9 of the parties, the action may be taken without any further notice or action or order of the
10 Bankruptcy Court.

11 24. Neutral Construction. Each of the parties hereto has been involved in the
12 negotiation, review, and execution of this Order and each has had the opportunity to
13 receive independent legal advice from attorneys of its choice with respect to the
14 advisability of making and executing this Order. In the event of any dispute or
15 controversy regarding this Order, the parties hereto shall be considered to be the joint
16 authors of this Order and no provision of this Order shall be interpreted against a party
17 hereto because of authorship.
18

19 25. Headings. The parties acknowledge that the headings set forth herein are
20 for convenience only and shall not be used to limit, define, or interpret the rights and
21 responsibilities of the parties hereunder.
22

23 26. Power of Representatives. Any party executing this Order in a
24 representative capacity warrants that he or she is duly authorized and empowered to do
25 so.
26

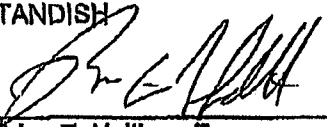
27 27. Survival of Obligations. The provisions of this Order and any actions taken
28 in accordance with this Order survive entry of any order that may be entered: (a)
confirming any plan in any case of any Debtor; (b) converting this Chapter 11 case to a

1 case under Chapter 7 of the Bankruptcy Code; or (c) dismissing this case. Unless
 2 otherwise ordered by the Bankruptcy Court, the claims and liens on the Cash Collateral
 3 and the Postpetition Collateral continue in full force and effect and maintain their priority
 4 until all the obligations owed under the terms of the Loan and Security Agreements and
 5 this Order are paid in full.

7 28. Binding Effect. This Order is binding on and inures to the benefit of the
 8 Debtor, its estate, any representative of the Debtor or its estate, any Trustee appointed in
 9 this case, whether under Chapter 11 or Chapter 7, any Examiner with expanded or
 10 special powers to operate the Debtor's business appointed in this case, GMAC, and their
 11 respective successors and assigns.

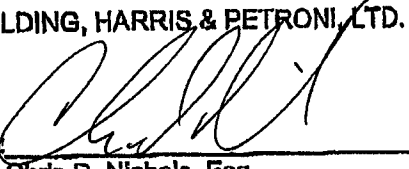
13 Dated February 18, 2009.

14 JOLLEY URGAL WIRTH WOODBURY
 15 & STANDISH

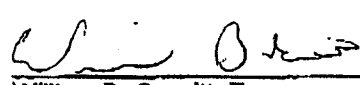
16 By: 
 17 Brian E. Holthus, Esq.
 18 3800 Howard Hughes Pkwy., #1600
 19 Las Vegas, Nevada 89169
 Attorneys for GMAC

Dated February 19th, 2009.

BELDING, HARRIS & PETRONI, LTD.

20 By: 
 21 Chris D. Nichols, Esq.
 22 417 W. Plumb Lane
 23 Reno, Nevada 89509
 24 Attorneys for Debtor

25 Approved this 19th day of February, 2009.

26 
 27 William B. Cossitt, Esq.
 28 Office of the U.S. Trustee

ORDER

Based upon the foregoing Stipulation, IT IS SO ORDERED.

*